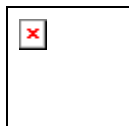


SHOPS: SUNDAY TRADING

**Lodged au Greffe on 21st September 1999
by the Connétable of St. Lawrence**



STATES OF JERSEY

STATES GREFFE

175

1999

P.137

Price code: B

PROPOSITION

THE STATES are asked to decide whether they are of opinion -

to agree, in principle, that the Shops (Sunday Trading) (Jersey) Law 1960, as amended, be repealed and replaced by a new Law containing, inter alia, provisions to the following effect -

- (a) to limit the opening of shops, in accordance with the terms of a trading permit issued by the Connétable of the parish concerned, by -
 - (i) prohibiting the opening of shops with a retail sales area in excess of 2,000 square feet in St. Helier and in excess of 3,000 square feet in other parishes;
 - (ii) permitting the opening of certain types of shop in St. Helier, with a retail sales area of 2,000 square feet or less, where the predominant use falls within certain defined categories or a special purpose, for a specified length of time according to the size of the retail sales area;
 - (iii) permitting the opening of shops with a retail sales area of 3,000 square feet or less in parishes excluding St. Helier, where the predominant use falls within certain defined categories or a special purpose, for a specified length of time;
 - (b) to provide that shops will have to satisfy the 'predominant use' or the 'special purposes' test as defined in the legislation, together with the retail sales area 'test', before being granted a permit to trade on Sunday;
 - (c) to provide for the charging of permit fees of a variable amount linked to the retail size area of the premises;
 - (d) to provide for special conditions to be attached to a permit restricting trade on Good Friday, Easter Sunday, Liberation Day and Christmas Day;
 - (e) to exempt certain transactions from the provisions of the Law, namely -
 - (i) intoxicating liquors for consumption on the premises at which they are sold; and
 - (ii) meals or refreshments for consumption at the shop at which they are sold;
 - (f) to permit the Connétable, in his absolute discretion, to issue a permit for the sale of such other goods as may be specified in the permit in respect of some particular event;
 - (g) to provide penalties for non-compliance with the Law or with any condition attached to a trading permit;
- and to charge the Legislation Committee to prepare the necessary legislation.

CONNÉTABLE OF ST. LAWRENCE

Report

Sunday has traditionally been a day of rest from commercial activity, enabling people to enjoy other activities and to benefit from a break from work. However, with business becoming increasingly competitive and the trend towards greater commercialism, particularly following the relaxation of the Sunday trading laws in the United Kingdom, there is increasing pressure on businesses in Jersey to follow suit. Whilst larger companies push for additional trading to gain an increased market share, the smaller traders are faced with having to compete or to close, and there is increasing pressure on staff to work.

The States debated the issue of Sunday trading in 1998, and were firmly of the opinion that Sunday should not become another trading day and needed to be protected. Following the debate, the Connétables were asked to bring forward alternative proposals to change the existing law. Representatives of the Connétables have met with interested parties, including The Jersey Small Business Traders Association, who support restriction on Sunday trading.

The existing Law [the Shops (Sunday Trading) (Jersey) Law 1960, as amended] is outdated, has many anomalies and requires revision. The opportunity has therefore been taken to propose a new Law that meets the current requirements of the Island. Any anomalies so created should be addressed separately.

In exercising control under the existing legislation the Connétables have, in refusing Sunday trading permits to larger supermarkets, had regard to -

- the disruption and inconvenience which might be caused to residents if shops in the area trade;
- the availability of other smaller shops open on those days;
- the likelihood of the tranquillity of Sunday being disrupted by the trading.

The Connétables believe these are important factors that must be balanced against the needs of residents and tourists to be able to purchase essential items. Any law must be simple to apply and easy to police. The proposed system for restricting Sunday trading therefore applies two tests to shops/businesses, namely that of retail sales area [this would have to be confirmed by survey/measurement] and that of predominant use/special purpose. If granted a Sunday trading permit, a shop would be able to sell whatever goods it stocked. The categories proposed cover those that are believed to be essential goods, but also cater for recreational pursuits and cover sporting and tourist attractions.

It is envisaged that the main business of the shop would be identified by the 'predominant use' test and this would permit the opening of smaller shops selling goods that are regarded as 'essential'. The categories would include -

- (i) sale of foodstuffs and non-alcoholic beverages;
- (ii) sale of intoxicating liquors;
- (iii) sale of newspapers, periodicals and magazines;
- (iv) sale of petroleum spirit, diesel oil, lubrication oil, paraffin and liquefied petroleum gas and solid fuel, supplies and accessories for motor vehicles, pedal cycles, aircraft and boats (including any other description of vessel used in navigation);
- (v) the hire of motor vehicles, pedal cycles, aircraft and boats (including any other description of vessel used in navigation);
- (vi) sale of agricultural or horticultural produce at roadside stalls;
- (vii) sale of medicines and surgical appliances at any premises registered under Article 13 of the Pharmacy, Poisons and Medicines (Jersey) Law 1952.

The special purposes covers certain businesses that are at present exempt from the existing Sunday Trading Law, thus putting them on the same commercial footing as other businesses, such as -

- (viii) any business carried on the foreshore under a concession granted by the Tourism Committee;
- (ix) any business within the arrival or departure halls within the Port of St. Helier or St. Peter's Airport;

and new categories cater for recreational pursuits such as -

- (x) shops being a use incidental to the main attraction, such as the zoo and museums, or place of entertainment such as the theatre and cinema;
- (xi) shops being a use incidental to the operation of a recognised sporting facility, and stocking equipment used in connection with the sports played on the site.

The Connétables consider that the needs of St. Helier residents differ from other parishes in view of the residential density and the number of smaller shops available within a limited space. In comparison, other parishes have a very limited number of outlets serving a much wider area. Mindful of the need to protect the rights of residents of St. Helier to one day of the week which is relatively free of trading, yet ensuring that residents in more rural areas are not further inconvenienced by the closure of the only shop in the area, the Connétables propose that shops over 2,000 square feet in St. Helier should not be permitted to open, but that in other parishes the size should be 3,000 square feet. The time during which a shop will be permitted to trade would also be restricted according to the retail sales area and location, for example, in St. Helier the restrictions might be -

- retail sales area 2,000 square feet or less permitted to open for up to three hours before 1 p.m. on a Sunday;
- retail sales area 1,000 square feet or less permitted to open for up to six hours on a Sunday;
- retail sales area 500 square feet or less permitted to open all day on a Sunday;

and in other parts of the Island the restriction might be from 7 a.m. to 8 p.m.

The proposed Law would cover some transactions that are currently exempt, e.g. foreshore concessions. Some transactions at present exempt will not be exempt under this Law, as they are not considered to be essential for a Sunday e.g. post office business. Likewise the 'predominant use' category is quite limited, and excludes certain types of goods currently permitted to be sold, as these are non-essential (e.g. toys) but are available at other outlets, as many small shops, whilst predominantly selling foodstuffs and beverages, also sell a few toys.

The change from one form of restriction to another may result in anomalies, and it is therefore recommended that an exemption period be allowed so that those businesses currently permitted to trade on a Sunday could carry out alterations to meet the new standards introduced should they so wish.

The Sunday trading law should be updated, and the Connétables believe that what is being proposed for the States to debate is, in its entirety, fair and workable.